

REMARKS

In the Restriction Requirement, the Examiner requested Applicants to elect one of the following inventions:

Group I (claims 1, 2, 16, and 17) drawn to polypeptides and compositions comprising such.

Group II (claims 3-7, 9, 11, and 12) drawn to polynucleotides, host cells, and methods of expressing.

Group III (claim 8) drawn to a transgenic organism.

Group IV (claim 10) drawn to an antibody.

Group V (claims 13-14) drawn to a method of detecting a polynucleotide by hybridization.

Group VI (claim 15) drawn to a method of detecting a polynucleotide by PCR amplification.

Group VII (claim 18) drawn to a method of treating a disease by administering a polypeptide.

Group VIII (claim 27) drawn to a method of screening a compound for effectiveness in altering expression of a polynucleotide.

Group IX (claim 28) drawn to a method of assessing toxicity of a compound by detecting a hybridization complex.

Applicants hereby elect, with traverse, to prosecute Group II, which includes and is drawn to Claims 3-7, 9, 11, and 12. Applicants reserve the right to prosecute the subject matter of non-elected claims in subsequent divisional applications.

Applicants submit that the invention encompassed by Groups V, VI, VIII, and IX (claims 13-15, 27, and 28) are drawn to methods of use of the polynucleotides of Group II, and should be examined together, per the Commissioner's Notice in the Official Gazette of March 26, 1996, entitled "Guidance on Treatment of Product and Process Claims in light of *In re Ochiai*, *In re Brouwer* and 35 U.S.C. § 103(b)" which sets forth the rules, upon allowance of product claims, for rejoinder of process claims covering the same scope of products. See also M.P.E.P. 821.04 as follows.

Where product and process claims drawn to independent and distinct inventions are presented in the same application, applicant may be called upon under 35 U.S.C. 121 to elect claims to either the product or process. . . . The claims to the nonelected invention will be withdrawn from further consideration under 37 C.F.R. 1.142. . . . However, if applicant elects claims directed to the product, and a product claim is

subsequently found allowable, withdrawn process claims which depend from or otherwise include all the limitations of the allowable product claim will be rejoined.

Applicants note in addition that the polypeptides and compositions of Group I (claims 1, 2, 16, and 17), have already been examined and allowed in the parent application. Group VII (claim 18) is a method of use of the polypeptides of Group I, which should be examined together. Applicants also suggest that Group IV, drawn to antibodies to the polypeptides, could be examined at the same time, also without undue burden on the Examiner. Group III, drawn to a transgenic organism comprising a polynucleotide of Group II could also be examined at the same time as the polynucleotides of Group II, without undue burden on the Examiner. Applicants respectfully submit that there is minimal additional burden on the Examiner to examine those claims in addition to the claims elected in the present application, particularly in view of the searches and examination which were already conducted with respect to the previously issued claims and the additional burden on Applicants to file, prosecute and maintain yet another application in this family, and respectfully request that the Examiner consider doing so.

Thus, Applicants request reconsideration and withdrawal of the Restriction Requirement and examination of the entirety of Applicants' claims.

Applicants believe that no fee is due with this communication. However, if the USPTO determines that a fee is due, the Commissioner is hereby authorized to charge Deposit Account No. 09-0108.

Respectfully submitted,

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